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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91215734
Party	Plaintiff Assa Realty, LLC
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Attachments	Reply Papers Final.pdf(78753 bytes) Assa Aff in Reply Final.PDF(244312 bytes) Exhibit 47.pdf(115401 bytes) Cert of Service.pdf(23095 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X ASSA REALTY, LLC, <div style="text-align: center;"><i>Opposer,</i></div> v. THE SOLUTION GROUP CORP., <div style="text-align: center;"><i>Applicant.</i></div> -----X	Trademark Application Mark: CASSA Application Serial No.: 85900657 Filed: April 10, 2013 Published: February 4, 2014 Opposition No.: 91215734
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**OPPOSER’S REPLY TO APPLICANT’S
OPPOSITION TO SUMMARY JUDGMENT**

Opposer Assa Realty, LLC, (“Opposer”) hereby submits this Reply in further support of its motion for summary judgment and in reply to the response of Applicant The Solution Group Corp. (“Applicant”), which utterly fails to raise a question of fact to defeat summary judgment.

**I. THE UNDISPUTED FACTS ENTITLE OPPOSER TO
SUMMARY JUDGMENT**

Opposer’s motion for summary judgment addresses the issue of priority to the Mark, which is the only issue before the Board in this Opposition. The undisputed facts establish that Opposer and certain related entities (collectively, the “Assa Entities”)—all of which are under the common control of Salim Assa and his brother—first used the Mark four years prior to Applicant. Applicant’s response fails to raise any genuine issue of material fact as to Opposer’s prior use of the Mark. Applicant does not submit an affidavit that challenges, rebuts or controverts Opposer’s facts.

The Board generally follows the Federal Rules of Civil Procedure in *inter partes* proceedings. *See* TBMP § 101.02 Where, as here, “a party fails to properly support an assertion of fact or fails to properly address another party’s assertion of fact as required by Rule 56(c), the

court may . . . [among other relief] consider the fact undisputed for purposes of the motion . . . [or] grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it.” Fed. R. Civ. P. 56(e)(2), (3). Here, in light of the Applicant’s failure to provide an affidavit that addresses or rebuts the facts established in Opposer’s supporting materials, those facts should be deemed undisputed and Opposer’s summary judgment motion should be granted.

Specifically, the following facts are un rebutted and should be deemed admitted in this matter:

- a) Opposer developed the Mark starting in January, 2007. *See* Affidavit in Support of Opposer’s Motion for Summary Judgment (“Assa Aff.”) ¶¶ 5-6; and Exhibit 14.
- b) Opposer, through Waterscape Resort, LLC (one of the Assa Entities) first used the Mark to advertise its services, *i.e.*, sales and leases of residential units, on March 15, 2009. *See* Aassa Aff. ¶7; Affidavit in Further Support of Opposer’s Motion for Summary Judgment (“Second Assa Aff.”) ¶9; and Exhibits 16, 17, 20, 28, 30, 32-34, 36, 40 and 41.
- c) Opposer launched a Website in March, 2009, to advertise residential units for sale and lease. *See* Aassa Aff. ¶¶7 and 14; Second Assa Aff. ¶9; and Exhibit 36.
- d) Opposer’s Website offered hotel services in September, 2010, when the hotel opened for business at that time. *See* Assa Aff. ¶¶7; and Exhibit 36.
- e) Opposer has been using the Website to advertise its services continually since, March, 2009. *See* Assa Aff. ¶¶7 and 14; Second Assa Aff. ¶9; and Exhibits 13, 23, 24, 35-39.
- f) Opposer designed and printed a brochure for sale of residential units which has been in continual use since March 2009. *See* Assa Aff. ¶12; and Exhibits 32-34.
- g) Opposer opened a showroom and sales office in March 2009, to conduct pre-construction sales of residential units. *See* Assa Aff. ¶¶7 and 18; and Exhibits 16, 17, 20, 40 and 41.
- h) Waterscape Resort, LLC sold the first two units July 7, 2010, Units 39C and Penthouse 3. *See* Assa Aff. ¶10; and Second Assa Aff. ¶12.
- i) Banners were hung at the site as earlier as February 28, 2009, advertising the Mark until September 2010. *See* Assa Aff. ¶13; and Exhibits 28, 30.

- j) In January 2012, as a result of the sale of Cassa Hotel (i.e., the hotel portion of the building), a license was granted to the new owners of Cassa Hotel. *See* Assa Aff. ¶9; Second Assa Aff. ¶11; and Exhibit 47.
- k) In 2014, the Assa Entities extended the use the Mark to the project located at 515 Ninth Avenue, New York, New York. *See* Assa Aff. ¶21; and Exhibits 26, 45 and 47.
- l) Applicant's earliest alleged use is March 18, 2013.
- m) Applicant provides no evidence that it used the Mark prior to March 18, 2013.
- n) Opposer's first use pre-dates Applicant's use by four years.

In short, Applicant has submitted nothing to rebut Opposer's showing that it first used the Mark before Applicant. Because this motion is about priority, the failure of Applicant to submit evidence to demonstrate that its use pre-dates Opposer's date of first actual use, means Applicant failed to raise any questions of fact to defeat summary judgment. Moreover, as discussed below, the undisputed facts foreclose any claim of that Opposer ever abandoned the Mark. Accordingly, Opposer's motion for summary judgment should be granted.

II. THE UNDISPUTED FACTS ESTABLISH THAT OPPOSER AND THE OTHER ASSA ENTITIES ARE UNDER COMMON CONTROL AND THUS ARE RELATED COMPANIES WITHIN THE MEANING OF THE LANHAM ACT

Applicant suggests that there is a question "whether Waterscape Resort LLC was the owner of the mark and the license agreement [from Opposer Assa Realty, LLC to Waterscape Resort, LLC] was an afterthought for this controversy." Applicant's Resp. at 3. That argument overlooks the relationship of Opposer to Waterscape Resort and the other Assa Entities, which are related companies within the meaning of the Lanham Trademark Act.

The Lanham Trademark Act defines a "related company" as "any person whose use of a mark is controlled by the owner of the mark with respect to the nature and quality of the goods or services on or in connection with which the mark is used." 15 U.S.C. § 1127. The Lanham

Trademark Act further provides that: “Where a registered mark or a mark sought to be registered is or may be used legitimately by related companies, such use shall inure to the benefit of the registrant or applicant for registration, and such use shall not affect the validity of such mark or of its registration, provided such mark is not used in such manner as to deceive the public. If first use of a mark by a person is controlled by the registrant or applicant for registration of the mark with respect to the nature and quality of the goods or services, such first use shall inure to the benefit of the registrant or applicant, as the case may be.” 15 U.S.C. § 1055. As the Board is aware, related entities that are controlled by the same person or entity may and do share the use of a Mark. See *Estate of Coll-Monge v. Inner Peace Movement*, 524 F.3d 1341, 1348 (D.C. Cir. 2008) (The “statute requires control over only the ‘use of a mark ... with respect to the nature and quality of the goods or services,’ . . . which may include not only corporate control but also licensing agreements and other types of oversight.”) (internal citation omitted). Here, all the Assa Entities that used the Mark are related by their common ownership and control by Salim and Isaac Assa.

Assa Realty, LLC, Assa Properties, Inc. and Waterscape Resort, LLC, are all related entities owned and controlled by Salim Assa and his brother Isaac Assa, the individuals who commissioned the Mark and its development. See Second Assa Aff. ¶5. Opposer Assa Realty, LLC, is 100% owned by Salim Assa and Isaac Assa. See Second Assa Aff. ¶5. Salim Assa and Isaac Assa both own 100% of the stock of Assa Properties, Inc. See Second Assa Aff. ¶5. As for Waterscape Resort, LLC, Salim Assa and Isaac Assa own 62% of the stock, and Salim Assa is the Managing Member of Waterscape Resort, LLC, clearly demonstrating their control of it. See Second Assa Aff. ¶5. The more recent project at 515 Ninth Avenue, a related entity now using

the Mark, is controlled 50.1% by Salim and Isaac Assa, and Salim Assa is the Managing Member. *See* Second Assa Aff. ¶5.

In sum, as established through the un rebutted facts set forth in the supporting affidavits, Salim Assa has control over all the Assa Entities (including Opposer and Waterscape Resort, LLC). As the Assa Entities' Manager, Salim Assa also has control over the use of the Mark and the quality and nature of the goods and service. The companies are substantially related as required by the related company doctrine. *Secular Organizations for Sobriety, Inc. v. Ullrich*, 213 F.3d 1125, 1131 (9th Cir. 2000)(the related companies doctrine requires a showing of a substantial relationship between the entities); *see also Hurricane Fence Company v. A-1 Hurricane Fence Co.*, 468 F.Supp. 975, 986 (S. D. Ala. 1979) (where owner-registrant was partnership of two brothers and user-licensee was corporation controlled by the two brothers plus two more brothers, holding that "the necessary control over use of the mark by the licensee was present" to defeat a claim of abandonment, and that the "interrelationship indicates sufficient control by the mark owner over the conduct and usage of the mark by the licensee/sublicensor").

The factual record, un rebutted by Applicant, clearly demonstrates that the Assa Entities are all related through their common ownership and control by the Assas and that the Assas have control over the use of the mark, as well as the nature and quality. Accordingly, Applicant's effort to manufacture a purported factual issue over ownership or control of the Mark is unavailing.

III. APPLICANT MISCONSTRUES THE LEGAL SIGNIFICANCE OF WATERSCAPE RESORT, LLC'S BANKRUPTCY

Applicant entirely misapprehends the nature of a Chapter 11 bankruptcy and the legal significance of Waterscape Resort, LLC's filing for Chapter 11 bankruptcy protection. A

petition filed pursuant to Chapter 11 of the Bankruptcy Code permits a corporation to reorganize its debts to keep its business alive and pay creditors over time. See 11 U.S.C. §1101 *et seq.* Chapter 11 Bankruptcy is not a liquidation of assets, as occurs in a Chapter 7 filing. See 11 U.S.C. §701 *et seq.*

Waterscape Resort, LLC, filed for Chapter 11 protection as a result of a dispute with its construction manager regarding the cost overruns, delays and defective work with its building project, a hotel and residential condominium building. As explained in Opposer's initial summary judgment motion, Salim and Isaac Assa had previously branded that project as Cassa Hotel & Residence.

To be clear, Cassa Hotel and Residence, located at 70 West 45th Street, New York, New York, is one building that is 48 stories. It contains both commercial condominium units for the hotel and a restaurant and individual residential condominium units. Cassa Hotel comprises two condominium units that contain 165 rooms on floors 2-5 and 11-27. The restaurant is one condominium unit that is located in the basement. There are fifty-three individual residential condominium units situated floors 28-48. See Second Assa Aff. ¶7.

As part of its Chapter 11 Plan of Reorganization, Waterscape Resort, LLC, retained ownership and control of the residential portion of the project, but sold Cassa Hotel and the restaurant portion of the building, *i.e.*, the commercial condominium units within the building used by Cassa Hotel and the restaurant. See Second Assa Aff. ¶10. The proceeds of the sale were used to fund Waterscape Resort, LLC's Chapter 11 Plan, which became a confirmed plan on January 23, 2012, at the time the sale of Cassa Hotel closed.¹ Waterscape Resort, LLC, entered into a written license agreement, (the "License Agreement") with the new owners of the

¹ The foregoing are all public records and can be found at the U.S. Bankruptcy Court for the Southern District of New York under *In re Waterscape Resort, LLC*, Docket No.: 11-11593(SMB).

hotel so that they could continue to operate the hotel portion of the building as Cassa Hotel. A copy of the License Agreement is submitted as Exhibit 47. Waterscape Resort, LLC, did not sell the Mark, cease use of it, or in any way relinquish control over the Mark. There is thus no basis in the factual record for Applicant's suggestion that the license to the new hotel owners was "tantamount to abandoning any mark rights that Opposer may have had." Applicant's Resp. at 6. Waterscape Resort continued to use the mark in connection with the residential portion of the building. Far from constituting "abandonment," the licensing of the Mark for use in connection with the hotel portion of the project is entirely consistent with Opposer's ongoing use of and control over the Mark—use and control that predated Applicant's alleged first use in March 2013.

IV. APPLICANT'S REMAINING ARGUMENTS FAIL TO RAISE ANY GENUINE ISSUE OF MATERIAL FACT

None of Applicant's remaining arguments raises a factual dispute sufficient to defeat Opposer's motion for summary judgment.

In particular, much of Applicant's response rests on a misunderstanding of the nature of a service mark. Here, Opposer used the Mark in advertisements. Those advertisements were for sale and leasing of residential units. Some of the advertisements also offered hotel rooms to people planning to visit the New York City Tri-State² area from all over the nation and the world. Advertisements, of course, constitute proper use of a service mark, such as the Mark. *Penta Hotels Ltd. v. Penta Tours*, 9 U.S.P.Q.2d 1081 (D. Conn. 1988) (use of hotel service mark in advertising materials constitutes use of the mark in commerce); *Trademark Manual of Examining Procedure (TMEP)*, Section 1301.04(a) ("The specimen must show the mark as

² The New York City Tri-State area is composed of the City of New York, Long Island, Southern New York, Northern New Jersey and the Panhandle of Connecticut.

actually used by the applicant in selling or advertising the services. 37 C.F.R. §2.56(b)(2). Acceptable specimens may include newspaper and magazine advertisements, brochures, billboards, handbills, direct-mail leaflets, menus (for restaurants), press releases that are publicly available (e.g., on the applicant's website), and the like.”).

Also unavailing is Applicant's attempt to dismiss the Affidavit of Salim Assa as mere “hearsay.” Mr. Assa's affidavit was made upon personal knowledge. *See* Assa Aff. ¶2. Indeed, Mr. Assa is the manager of both Opposer and Waterscape Resort, LLC. *See id* ¶¶ 1, 4 & n.1. From January 2007 to the present, he was personally involved with all decisions and called the shots relating to the Mark and its use, e.g., the types of advertising, the banners, the New York Times and other advertisements, and the sales office. *See* Assa Aff. ¶¶ 4-7, Exhibits 13-18, 20-23, 25-37 and 39-42; *see also* Second Assa Aff. ¶¶ 1 and 4. Given his direct involvement in these matters, and his status as manager and part owner of the relevant entities, Mr. Assa is clearly competent to testify to the facts discussed in his affidavit.

Similarly misguided is Applicant's suggestion that the *New York Times* advertisements submitted by Opposer do not establish use in commerce. *See* Applicant's Resp. at 3. Exhibits 16, 17 and 20, show prices in the advertisements. Exhibit 16 has several advertisements that state prices and type of units. “Starting at \$800,000 Limited collection of studio to 4-br residences w/ spectacular views.” *See* Exhibit 16 (document nos. AR0343, AR0340, 0342 and AR0344). Exhibit 17 states “Cassa Residences Available Winter 2009 Starting at \$850,000.” Exhibit 20 states, “Limited collection of studio to 4-br residence with spectacular views.” The advertisement does not just identify a location, but also demonstrates an advertisement for the services, *i.e.*, that sale of residential units, which is clearly a proper use of a service mark. Moreover, Applicant's argument ignores the un rebutted statement by Mr. Assa that the ads were

in fact run in the *New York Times*. See Assa Aff. ¶ 7 (“The showroom and the W45 Project were well advertised in the New York Times.”).³

Applicant’s response also reflects a misunderstanding as to the difference between the launch of a website, a live website and a fully functioning website. As explained in paragraph 14 of Mr. Assa’s initial affidavit, the website was launched in March 2009. On that date, the website was live and accessible to any person using the Web. An image of the website as it looked at or around its launch was submitted as Exhibit 36. Although it was live, there were some bugs with the website that needed to be worked out, so it was not fully functioning. See Exhibit 38. Those bugs were worked out and the website was fully functioning a few months later. Even giving Applicant the benefit of any doubts, the Assa Affidavit clearly attests to the fact that bugs were worked out and provides a copy of the live website as it was in October 2010, after the bugs were resolved. See Ex. 39 (indicating, at bottom of the pages, both the web address and the date the pages were printed). Use of a service mark on a website referencing the applicable services constitutes proper use of a mark in commerce. *In re Ancor Holdings, LLC*, 79 USPQ2d 1218, 2006 WL 1258813 (TTAB 2006); *TMEP*, Section 1301.04(h)(iv)(C) (“Webpages from an applicant’s or a third-party’s website are routinely submitted as advertising and are acceptable if they show the mark used as a service mark, explicitly/textually reference

³ Applicant’s claim that Opposer did not disclose the advertisements in response to interrogatories is unfounded. Exhibit 8 to Opposer’s summary judgment motion is Opposer’s Supplemental Response to Applicant’s First Set of Interrogatories. The Response to Interrogatory No. 7 identified, by Bates number, the specific documents that have now been submitted by Opposer as exhibits to its motion for summary judgment. Compare Exs. 16 (AR0338-44), 17 (AR0351-54) and 18 (AR0563-65) with Ex. 8 at 3 (Response to Interrogatory No. 7, listing same Bates numbers as “[p]aid advertisements, both in magazines, newspaper and other paper forms, as well as electronic, including the internet”).

the identified services, and associate the mark with those services.”) The website conclusively establishes the prior use by Opposer and its continued use to the present.⁴

Brookfield Communications, Inc. v. West Coast Entertainment Corp., 174 F.3d 1036, 50 U.S.P.Q.2d 1545 (9th Cir. 1999), cited by Applicant, is inapposite. *See* Applicant’s Resp. at 7. In *Brookfield*, West Coast sought priority by claiming e-mail addresses and the use of a domain name. The *Brookfield* court rejected such use as evidence of prior use, because the use of a mark in an e-mail address or as a domain name is not actual use. *Id.* at 1555-56. Here, Opposer does not rely on any use of its mark as a domain name or use of e-mail addresses as prior use. Opposer claims prior actual use of the Mark by its advertisement on its website and its webpages, as well as in other print media, internet outlets and other sources as demonstrated by the numerous exhibits submitted in support, and by sales of condominiums and rental of hotel rooms under the Mark. *See* Exhibits 13, 15-18, 20-23, 25-37 and 39-41. Accordingly, *Brookfield* has no application to this matter and is not controlling.

Applicant attempts to sow confusion by cherry picking isolated statements in Mr. Assa’s initial affidavit. For example, Applicant cites to paragraph 7 of the affidavit regarding the “showroom.” However, paragraph 18 makes clear that, by approximately March 15, 2009, there was a “sales office” for the W45 Project. *See* also Exhibits 40 and 41. The sales office, as the name conspicuously states, was to generate sales of residential units during the construction period. It defies common sense for Applicant to suggest that the “sales office” did not advertise a service.

⁴ Applicant attacks several of Opposer's documents and evidence as being downloaded after the filing date of the “present application.” Contrary to Applicant's assertion that they are irrelevant, these documents and evidence demonstrate Opposer's continued and current use of the Mark.

Finally, Applicant refers to an “unreasonable delay by Opposer” for more than two years prior to Opposer's first use of the Mark. *See* Applicant’s Resp. at 7. As described in Mr. Assa’s initial affidavit, Opposer began development of the Mark in January 2007, and then began use of the Mark in commerce in March 2009. *See* Assa Aff. ¶¶ 5-7. Regardless of the time it took Opposer to begin use of the Mark after its development, Opposer's first use of the Mark in March 2009 still predates any use by Applicant by four years.

V. **CONCLUSION**

This is a very straightforward motion. Opposer started using the Mark on March 15, 2009. Applicant offers nothing by way of admissible evidence to show its earlier use of the Mark. Instead it only offers ineffective arguments that do not raise a question of fact to defeat summary judgment. Accordingly, Opposer’s motion should be granted in its entirety, and this Opposition should be decided in favor of Opposer.

Dated: New York, New York
August 28, 2015

Yours, etc,
RICHARD J. MIGLIACCIO, ESQ.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X ASSA REALTY, LLC, <div style="text-align: center;"><i>Opposer,</i></div> -against- THE SOLUTION GROUP CORP., <div style="text-align: center;"><i>Applicant.</i></div> -----X	Trademark Application Mark: CASSA Application Serial No.: 85900657 Filed: April 10, 2013 Published: February 4, 2014 Opposition No.: 91215734
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**AFFIDAVIT IN FURTHER SUPPORT OF OPPOSER’S
MOTION FOR SUMMARY JUDGMENT**

STATE OF NEW YORK }
 }ss.:
COUNTY OF NEW YORK }

I, Salim Assa, duly affirm, depose and say the following:

1. I am the Manager and a Principal of Assa Realty, LLC (“Opposer”) and am fully familiar with all of the facts and circumstances set forth below. Specifically, I have personal knowledge about the CASSA mark (the “Mark”), its development, and its use. I am the one who directed Graham Hanson Design to design the Mark, oversaw the development of the Mark, authorized the use of the Mark, and oversaw the marketing that involved use of the Mark.
2. The basis of my knowledge is the records and documents kept and maintained in Opposer’s files in the normal course of business, and my personal knowledge concerning the claims that are the subject of this Opposition proceeding.
3. I submit this Affidavit in further support of Opposer’s summary judgment motion.

4. As I stated in paragraph 1 of my prior affidavit, I am also known as Solly. My work e-mail is solly@assaproperties.com. As is apparent in most, if not all, of the e-mails submitted, I either received the e-mails directly, or was copied on them. It is incorrect for Applicant to say I was not on the e-mails, when they quite conspicuously have my e-mail address on them.

5. Regarding the control and ownership of the various Assa entities, they are all controlled by my brother and me. We own and control 100% of Opposer Assa Realty, LLC. We own and control 100% of Assa Properties, Inc. We own and control 62% of Waterscape Resort, LLC, of which I am the Managing Member. Finally, we own and control 50.1% of 511 Property, LLC, and I manage that company as well. In short, the foregoing entities (the "Assa Entities"), two of which use our name, are controlled by us. We thus control the quality and use of the Mark by the entities.

6. As described in paragraph 4 of my initial affidavit, in 2005, my brother and I, through Waterscape Resorts, LLC, purchased the property at 66-70 West 45th Street in New York City to develop a residential and hotel project (the "W45 Project"). In January, 2007, Opposer Assa Realty LLC granted a license to Waterscape Resort, LLC to use the Mark. As noted, I am the manager of both Assa Realty LLC and Waterscape Resort, LLC.

7. There is only one building that houses both Cassa Hotel and Cassa Residence. The building is located at 70 West 45th Street, New York, NY. It is a forty-eight story building. Cassa Hotel has 165 rooms on floors 2-5 and 11-27. Cassa Residence has fifty-three individual residential units which are located on floors 28-48. Floors 6-10 contain utility rooms and other amenities for the building. A restaurant is housed in the basement.

8. In June, 2010, Waterscape Resort, LLC, as sponsor of the building, filed the necessary document, the Condo Declaration, with the City of New York dividing the building into condominium units. It is a public record and can be accessed via New York City's ACRIS website.¹ In dividing the building into condominium units, we made Cassa Hotel into two commercial units; the restaurant was made into one commercial unit; and the individual residential units were each made into fifty-three separate residential condominium units.

9. The website for the Cassa Hotel and residence was launched and was live as of March 2009. But after it was launched and went live, there were some problems and was not fully functioning. See Exhibit 38. The website remained live and in use, despite the problems. Those problems were fixed while the website was live. Applicant has no basis to argue that the website was down, removed, or was not in use after it went live. It has been live and in continuous use since March, 2009.

10. When Waterscape Resort, LLC, sold Cassa Hotel and the restaurant to the new owners in January 2012, it sold the three commercial condominium units that contained Cassa Hotel and the restaurant. The sale was not of a separate building. Cassa Hotel is within the same building that Waterscape Resort, LLC, still maintains and controls.²

11. In connection with the sale the hotel portion of the building, the Mark was licensed to the new hotel owners for their use. See Exhibit 47. The license to the hotel owners did not involve a loss of control over the Mark, as Section 4 of the License Agreement gave

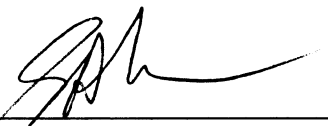
¹ ACRIS stands for Automated City Register Information System. The Web address is <http://a836-acris.nyc.gov/CP/>. It is a Website run and maintained by the Office of the Register of the New York City Department of Finance related to the filing and maintaining of all land records in New York City.

² Although it has sold many units and continues to offer residential units for sale, Waterscape Resort, LLC, has retained a majority of the residential units for leasing.

Waterscape Resort, LLC the right to review and approve uses of the Mark by the owners of the hotel portion of the building.

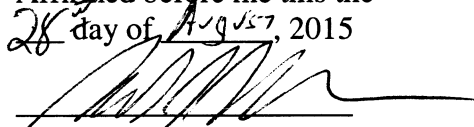
12. The Board should be advised that the first two individual residential units, Unit 39C and Penthouse 3, were sold on July 7, 2010. Proof of the sale can be found on ACRIS.

13. In sum, Opposer developed the Mark. Opposer and the other Assa Entities used the Mark starting in March 2009, and have never stopped using the Mark. There is nothing in Applicant's opposition that refutes that or demonstrates that Applicant used the Mark before we did.



Salim Assa
Manager of Assa Realty, LLC

Affirmed before me this the
28th day of August, 2015



Notary Public

RICHARD J. MIGLIACCIO
Notary Public, NY State
No. 02M14974109 QUEENS
Comm. Expires 11/05/2018

EXHIBIT 47

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement"), is made and entered into as of January 20, 2012 (the "Effective Date"), by and between **WATERSCAPE RESORT, LLC**, a Delaware limited liability company, having an office at 15 West 34th Street, 7th Floor, New York, New York 10001, Attention: Solly Assa ("Licensor"), and **70 WEST 45TH STREET HOLDING LLC**, a New York limited liability company ("Licensee").

W I T N E S S E T H :

WHEREAS, as of the date hereof and pursuant to that certain Agreement of Purchase and Sale of Membership Interest by and between Licensor and Purchaser, dated as of April 1, 2011, Licensor sold to Licensee its 100% limited liability company interest in Waterscape Resort II, LLC, a New York limited liability company ("Resort II"), the owner of the units known as Hotel Unit 1, Hotel Unit 2 and Commercial Unit 3 (collectively, the "Unit"), which are currently operated as a hotel known as the Cassa Hotel in the condominium known as "Cassa NY Condominium", located at 66-70 West 45th Street, New York, New York, together with the Unit's undivided interest in the Common Elements, as defined and designated in the Declaration of Condominium Ownership Establishing a Plan for Condominium Ownership of the Premises known as Cassa NY Condominium, 66-70 West 45th Street, New York, New York 10036, dated May 28, 2010 (the "Declaration") and recorded on June 25, 2010 as CRFN 2010000212892 in the Office of the Register of the City of New York in City, County and State of New York (the Unit and the Common Elements, collectively, the "Hotel");

WHEREAS, Licensor, directly or through affiliated companies, was the manager, lessee and/or operator of the Hotel under the name "CASSA HOTEL" (the "Licensed Mark") and certain other marks, names, distinctive emblems, insignias, logos, slogans, distinguishing characteristics, trade secrets, and intellectual property derived therefrom or otherwise related thereto (collectively, the "Licensed Mark"), with the Licensed Mark having become identified with the Hotel;

WHEREAS, by virtue thereof, the Licensed Mark has acquired substantial value, whether or not any such Licensed Mark has been registered or recorded in any particular jurisdiction; and

WHEREAS, Licensee desires to acquire from Licensor the right to use the Licensed Mark in connection with the operation and management of the Hotel and in the name of the Hotel, and Licensor is willing to grant such right to Licensee, all in accordance with and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of TEN DOLLARS (\$10.00) and for other consideration, the existence, receipt and sufficiency of which hereby are acknowledged, Licensor and Licensee hereby agree as follows:

SECTION 1. Grant of License.

(a) Subject to the terms and conditions contained in this Agreement, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a right and license (collectively, the "License") to use the Licensed Mark.

(b) Licensee shall be entitled to use the Licensed Mark solely in connection with the operation, management and promotion of the Hotel in accordance with this Agreement. Nothing in this Agreement shall entitle Licensee to use the Licensed Mark in connection with any goods, other than consumable and operating supplies and similar items of the Hotel, or services, other than the services of the Hotel in accordance with the Hotel Management Agreement.

SECTION 2. Term of License. The term of the License (the "Term") shall commence on the date of this Agreement and shall continue thereafter for six (6) months or, if earlier, the termination of the License in accordance with this Agreement.

SECTION 3. Exclusivity of License.

(a) The License shall be nonexclusive. Licensee acknowledges that, subject to the terms of this Agreement, Licensor and its affiliates may use the Licensed Mark in connection with the ownership, operation and management of the Cassa NY Condominium and other hotels owned, leased, licensed, franchised or managed by Licensor or any of its affiliates. The Licensed Mark shall be used by Licensee only with respect to the Hotel and only in such manner as will preserve and protect the exclusive right of Licensor and its affiliates of ownership in and to the Licensed Mark, as well as the value and distinctiveness thereof, and Licensee shall not use any Licensed Mark except in connection with the Hotel in compliance with this Agreement or as may be otherwise permitted by any other written agreement between Licensor and Licensee.

(b) Licensee hereby acknowledges the validity of the Licensed Mark and the exclusive ownership of the Licensed Mark by Licensor, whether or not registered or recorded. Licensee agrees that it will not, at any time during the term of the License or thereafter, directly or indirectly challenge, contest or aid in challenging or contesting the validity or ownership by Licensor of the Licensed Mark, or the title or registration thereto or recording thereof, whether now existing or hereafter obtained. Any and all goodwill and other rights which attach to, or arise in connection with the use of, the Licensed Mark during the term of the License or thereafter as a result of the business activities of Licensee shall inure to the sole benefit of Licensor and shall remain vested therein.

SECTION 4. Assurance of Quality and Preservation of Mark.

(a) Licensee shall take no action of any kind or nature whatsoever which shall, or in Licensor's reasonable judgment may, prejudice, impair, disparage or be detrimental to the

quality, value or validity of any Licensed Mark or to the reputation of Licensor and its affiliates. Licensee may not, during the term of the License or thereafter, use any name or mark that is confusingly similar to any Licensed Mark unless Licensor otherwise consents.

(c) Licensee shall use the Licensed Mark in accordance with applicable provisions of trademark law (in order to assure, preserve and protect Licensor's rights therein) and other applicable laws. Licensee shall utilize any mandatory, customary or other appropriate label, marking, notice or other reference to denote the existence of, or pending application for, any registration, recordation or other assertion of Licensor's rights in and to such Licensed Mark. Licensor shall be entitled to review the terms and circumstances under which any Licensed Mark is being used by Licensee from time to time in order to confirm Licensee's compliance with the provisions of this Section. Licensor shall have the right to approve: (i) the proper form of the Licensed Mark. Licensee shall conform to such approved form and use.

SECTION 5. Registration of Licensed Mark in United States. All rights in the Licensed Mark, other than to the extent of the License, are reserved by Licensor for its own use and benefit. Licensor has made and makes no representation or warranty hereby that any Licensed Mark is registered or recorded in either such jurisdiction, or is eligible for such registration or recordation, and the failure to obtain, renew or maintain any such registration or recordation shall not be deemed to constitute a breach or default by Licensor under this Agreement or constitute any cause for modification or termination of this Agreement or the License granted hereby. Licensee shall cooperate with Licensor in the execution, filing and prosecution of any instruments or documents as Licensor may require to obtain such registration or recordation, as well as any maintenance and renewal thereof, and to confirm and assure Licensor's ownership rights therein. In Licensor's discretion, Licensor may register or record this Agreement or any summary memorandum hereof.

SECTION 6. Infringement.

(a) Licensee shall promptly notify Licensor of any alleged infringement of any Licensed Mark on the rights of any third party. In the event that legal proceedings shall be instituted by any third party with respect to any such alleged infringement, Licensor shall have the right, at its option and expense and either in its name, in the name of Licensee, or in the name of both Licensor and Licensee, to be represented by counsel of its choice and to defend against, negotiate, settle or otherwise deal with such proceedings. Licensee, at Licensor's expense, shall cooperate fully with Licensor in connection with such proceedings. In the event Licensor shall have notified Licensee in writing that it shall have decided not to be represented by counsel of its choice and not to defend against, negotiate, settle or otherwise deal with such proceedings, Licensee may, upon prior written notice to Licensor, and at its own expense and in its own name, choose to be represented by counsel of its choice and to defend against, negotiate, settle, or otherwise deal with such proceedings; provided, however, that Licensee may not, without the prior written consent of Licensor, which consent may be withheld by Licensor in its sole discretion, under any circumstances nor in any manner whatsoever, bind or obligate Licensor or

any of its affiliates with respect to any such proceedings, defend, negotiate, settle or otherwise deal with such proceedings in the name or on behalf of Licensor or any of its affiliates, or represent or hold itself out as taking any such action in the name or on behalf of Licensor or any of its affiliates. If any Licensed Mark shall be declared by a court of competent jurisdiction to be an infringement on the rights of any third party so that Licensee may not thereafter continue in the use thereof, then Licensee shall cease and desist from such use (without otherwise affecting the rights and obligations of the parties hereunder). Neither Licensor nor any of its affiliates shall be liable to Licensee for any damages or otherwise by reason of any such infringement.

(b) Licensee shall promptly notify Licensor of any third-party infringement of any Licensed Mark, whether by the use of any such Licensed Mark, the use of any similar name or mark, or otherwise, but Licensee shall not take any action, legal or otherwise, with respect to such infringement without the prior written consent of Licensor. Licensor may, in its own discretion and either in its own name, in the name of the Licensee, or in the name of both Licensor and Licensee, take any legal action to protect any such Licensed Mark against such infringement. Licensee, at Licensor's expense, will cooperate fully with Licensor in any such action Licensor may decide to take and, if requested by Licensor, shall join with Licensor in such action as Licensor may deem advisable for the protection of Licensor's rights. Licensee shall have no right to take any action with respect to the protection of the Licensed Mark without Licensor's prior written consent. Neither Licensor nor any of its affiliates shall be liable to Licensee for any damages or otherwise by reason of any such third-party infringement.

SECTION 7. Indemnification.

Licensee shall indemnify and defend Licensor and its affiliates and their respective directors, officers, managers, stockholders, members, employees, representatives and agents, and hold them harmless, from and against any and all claims, suits, losses, damages, demands, injuries or expenses (including reasonable attorneys' fees) arising out of or relating to Licensee's use of any Licensed Mark (whether or not such use was in accordance with this Agreement).

SECTION 8. Termination of License.

(a) The License granted under this Agreement shall terminate: (A) six (6) months from the date hereof; (B) immediately in the event (i) Licensee commences or becomes the subject of any case or proceeding under any applicable national, state or foreign bankruptcy or insolvency laws, (ii) a receiver, liquidator, assignee, trustee or custodian is appointed to administer the affairs of Licensee, (iii) Licensee makes an assignment for the benefit of its creditors, or (iv) Licensee dissolves, liquidates, winds-up, sells or otherwise disposes of all or substantially all of its business or assets, or takes any action or furtherance of the foregoing; and (C) at Licensor's option, if Licensee breaches any of its obligations under this Agreement (unless promptly remedied to the satisfaction of Licensor).

(b) The termination of the License, for any reason, shall be without prejudice to any other right or remedy Licensors may have, including, without limitation, the right to recover any and all damages to which Licensors may be entitled by reason of the happening of the event giving rise to such termination. Any such right to damages shall survive the termination of the License.

(c) No receiver, liquidator, assignee, trustee or custodian appointed to administer the affairs of Licensee, sheriff or any other officer of the court or official charged with taking custody of Licensee's assets or business shall have the right to continue the performance of this Agreement, or to continue the License granted hereby, on behalf of Licensee.

SECTION 9. Effect of License Termination.

(a) The use of the Licensed Mark in connection with the operation and management of the Hotel heretofore and during the term of the License shall not cause the Licensed Mark to become appurtenant to the Hotel. Upon the termination of the License (and except as may be permitted under the next subsection and except as may be permitted under any other written agreement with Licensors), neither Licensee nor any of its affiliates nor any other owner, operator or occupant of the Hotel shall have the right, by virtue of this Agreement or otherwise, to continue using any Licensed Mark in the name of the Hotel, in the operation, management or promotion of the Hotel, or otherwise, and Licensee and such other persons immediately shall cease and desist from any such use. Licensors shall have the right, at Licensee's expense, to remove from the Hotel any signs or other indicia of any connection with the Licensors or with the Licensed Mark.

(b) Licensors shall have the right (which right shall survive the termination of the License) to seek injunctive or other relief as may be available at law or in equity in a court of competent jurisdiction to enforce the provisions of this Section and its other rights under this Agreement.

SECTION 10. Relationship of the Parties.

Nothing contained herein shall be construed to constitute Licensee a partner, employee, joint venturer or agent of Licensors, nor shall Licensee be entitled to bind or obligate Licensors in any manner whatsoever, it being intended by the parties hereto that for all purposes of this Agreement Licensee shall be an independent contractor responsible for its own actions.

SECTION 11. Further Assurance.

Licensee agrees to do such further acts and things, and to execute and deliver such further instruments and agreements, as Licensors reasonably may request consistent with this Agreement in order to give Licensors further assurance of its rights and remedies under this Agreement and to effect the purposes and intents of this Agreement.

SECTION 12. Notices.

Any notice, request or other communication required or otherwise given pursuant to this Agreement shall be given in writing by (a) personal delivery, or (b) reputable overnight delivery service with proof of delivery, or (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (d) legible facsimile transmission sent to the intended addressee at the address set forth below, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given either at the time of receipt or refusal or, in the case of facsimile transmission, as of the date of the facsimile transmission, provided that an original of such facsimile is also sent to the intended addressee by means described in clauses (a), (b) or (c) above. Notices may be given by a party's counsel on behalf of such party as if such party had given such notice itself. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

If to Licensor:	WATERSCAPE RESORT, LLC 15 West 34th Street New York NY 10001 Attn: Solly Assa Facsimile: (212) 239-7468
with a copy to:	Troutman Sanders LLP 405 Lexington Avenue New York, New York 10174 Attn: Mitch Fenton, Esq. Facsimile: 212-704-5945
If to Licensee:	70 WEST 45TH STREET HOLDING LLC c/o 747 Third Avenue, 22nd Floor New York, New York 10017 Attn: Stephen Sun Facsimile: 212-755-8890
with a copy to:	Wu and Kao PLLC 747 Third Avenue, 22 nd Floor New York, New York 10017 Attn: Allen Wu, Esq. Facsimile: 212-755-8890

SECTION 13. Governing Law; Jurisdiction.

This Agreement shall be construed under and shall be governed by the internal laws of the State of New York, without regard to principles of conflicts of laws (other than

Section 5-1401 of New York's General Obligations Law). Licensee hereby consents and agrees that the Supreme Court of the State of New York for the County of New York and the United States District Court for the Southern District of New York each shall have personal jurisdiction and proper venue with respect to any dispute under this Agreement. Licensee will not raise, and hereby expressly waives, any objection or defense to any such jurisdiction and venue as an inconvenient forum, and further agrees that any action or proceeding brought by Licensee against Licensor under this Agreement shall be brought only in said jurisdictions. Licensee hereby waives personal service of any summons, complaint or other process, which may be delivered by any of the means permitted for notices under this Agreement. Licensee hereby waives trial by jury.

SECTION 14. Severability of Provisions.

In the event that any portion of this Agreement shall be declared invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remainder of this Agreement shall in no way be affected, prejudiced or disturbed thereby, and this Agreement shall be construed as if such portion had not been inserted herein.

SECTION 15. Entire Agreement.

This Agreement, together with the applicable provisions of the Hotel Management Agreement, contains the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior writings and understandings with respect to such subject matter.

SECTION 16. Agreement Binding.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Licensee may not assign or sublicense any or all of its rights or delegate any or all of its duties under this Agreement without the prior written consent of Licensor; any attempted assignment, sublicense or delegation in violation of this provision or by virtue of the operation of law shall be void.

SECTION 19. Amendment and Waiver.

Neither this Agreement nor any term or provision of this Agreement may be changed, waived, released, discharged, withdrawn, revoked or terminated orally, or by any action or inaction. In order to be effective and enforceable, any such change, waiver, release, discharge, withdrawal, revocation or termination, as well as any consent or approval specified in this Agreement, must be evidenced by a written document or instrument signed by the party against which enforcement of such change, waiver, release, discharge, withdrawal, revocation, termination, consent or approval is sought, and then shall be effective only to the extent

specifically provided in such document or instrument. The foregoing shall not limit Licensor's right to terminate the License under the circumstances provided elsewhere in this Agreement.

SECTION 20. Remedies Not Exclusive.

No right, power or remedy now or hereafter available to Licensor under or in connection with this Agreement is or shall be exclusive of any other right, power or remedy, and each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to each and every other right, power and remedy now or hereafter available pursuant to this Agreement or pursuant to any law or judicial decision.

SECTION 21. Headings.

The section and other headings used in this Agreement are for reference purposes only and shall not be deemed to have any substantive effect.

SECTION 22. Counterparts.

This Agreement or its signature pages may be executed in any number of original counterparts, all of which evidence only one agreement and only one full and complete copy of which need be produced for any purpose. A facsimile or other electronic image of a signature will have the same legal effect for the purpose of establishing the execution of this Agreement as an originally drawn signature.

[REMAINDER OF PAGE IS BLANK -- SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Licensors and Licensees have caused this Agreement to be duly executed and delivered by their respective duly authorized signatories as of the date first set forth above.

Licensors:

WATERSCAPE RESORT, LLC,
a Delaware limited liability company

By: _____

Name: *SALIM ASSA*

Title: *MANAGER*

Licensees:

70 WEST 45TH STREET HOLDING LLC,
a New York limited liability company

By: _____

Name: *STEPHEN SUN*

Title: *AUTHORIZED SIGNATORY*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X
ASSA REALTY, LLC,

Opposer,

-against-

THE SOLUTION GROUP CORP.,

Applicant.
-----X

Trademark Application

Mark: CASSA

Application Serial No.: 85900657

Filed: April 10, 2013

Published: February 4, 2014

Opposition No.: 91215734

CERTIFICATE OF SERVICE

I, Joel Scott Ray, Esq., an attorney for Opposer, do hereby certify that on August 28, 2015, a true and correct copy of the foregoing **OPPOSER'S REPLY TO APPLICANT'S OPPOSITION TO SUMMARY JUDGMENT, AFFIDAVIT IN FURTHER SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT and EXHIBIT** were served via overnight delivery by Federal Express and via e-mail on the following:

Sanchelima & Associates, P.A.

235 S.W. Le Jeune Road

Miami, Florida 33134

Jesus Sanchelima, Esq.

legal@sanchelima.com; jesus@sanchelima.com; paralegal@sanchelima.com

Dated: New York, New York
August 28, 2015

RICHARD J. MIGLIACCIO, ESQ.

/s/ Joel Scott Ray
By: Joel Scott Ray, Esq.